

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO.1365 OF 2005
IN

INCOME TAX APPEAL (L) NO. 510 of 2005.

Solid Containers Ltd

... Appellant.

V/s.

Deputy Commissioner of Income-tax.... Respondent.

Shri A.R. Singh for the appellant.

Shri Pankaj Kapoor for the respondent.

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 23rd August 2005.

P.C. :

Heard.

No counter affidavit to oppose the application has been filed by the Revenue inspite of service of Notice of Motion well in advance. Hence taken up for consideration without reply.

2. By this Notice of Motion the appellant is seeking condonation of delay in filing appeal of about 799 days on the ground that the appellant was under bonafide belief that it cannot file an appeal against the order passed under section 254(2) before the High Court under section 260-A. The petitioner, therefore, had preferred writ petition which was allowed to be withdrawn on 1.2.2005 to enable it to

file appeal under section 260-A. In this backdrop, the submission is that the period lost in prosecuting writ petition bonafidely be condoned.

3. We have perused the affidavit. For the reasons stated therein, we are satisfied that this is not a case of inaction, negligence or want of bonafides on the part of the appellant. Sufficient cause has been made out by the appellant. Hence, the Notice of Motion is made absolute in terms of prayer clause(a).

(J.P. DEVADHAR,J.)

(V.C. DAGA,J.)